

EXHIBIT 10

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

VISTO CORPORATION * Civil Docket No.
* 2:03-CV-333
VS. * Marshall, Texas
*
* April 25, 2006
SEVEN NETWORKS, INC. * 8:10 A.M.

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE T. JOHN WARD
UNITED STATES DISTRICT JUDGE
AND A JURY

APPEARANCES:

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(Proceedings recorded by mechanical stenography,
transcript produced on CAT system.)

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1 Smartphone?
 2 A. Yes, sir.
 3 Q. Okay. An encrypted message cannot be
 4 modified, can it?
 5 A. No, it cannot, sir.
 6 Q. Okay. Now, let's talk about Smartphone, a
 7 telephone device that integrates computing capabilities
 8 and telephone capabilities.
 9 There's nothing new about that
 10 definition, is there?
 11 A. Well, that's the Court's definition, sir.
 12 Q. Well, but that describes devices that have
 13 been around for 30 years, 40 years?
 14 A. No, sir.
 15 Q. You know what a modem is?
 16 A. Yes, sir.
 17 Q. Is it your testimony that a modem is not a
 18 telephone device that -- I see we've got a typo where we
 19 have that twice.
 20 The Court did not make that mistake.
 21 That's my mistake, isn't it? You see where it says that
 22 twice?
 23 A. What does it say twice, sir?
 24 Q. Look at the first line. It says a telephone
 25 device that that.

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1 A. Oh. That is a typo.
 2 Q. I just want to be clear; that's my mistake.
 3 A. I don't know. I don't know if it was in the
 4 Markman ruling, sir.
 5 Q. So does a modem meet that definition or not,
 6 sir?
 7 A. No, sir.
 8 Q. A modem is short for modulator and
 9 demodulator; is that correct?
 10 A. That's correct, sir.
 11 Q. So what a modem does is it gets a signal off
 12 a telephone line, right?
 13 A. Well, you can put it on the telephone line as
 14 well. It works on both ends.
 15 Q. Either way. So a modem works with a
 16 telephone, with a telephone network, right?
 17 A. That's correct, sir.
 18 Q. Okay. So even though it works with a
 19 telephone network, you're saying it's not a telephone
 20 device?
 21 A. That's correct, sir.
 22 Q. Now, you did your own work by getting a
 23 version of the System SEVEN, correct, sir?
 24 A. Yes, sir.
 25 Q. Which edition did you get, sir?

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1 A. Personal Edition.
 2 Q. You got that Personal Edition using a false
 3 name, right?
 4 A. No, sir.
 5 Q. What name did you use when you got that
 6 Personal Edition?
 7 A. I didn't get the Personal Edition, sir. It
 8 was provided to me by the Manatt staff.
 9 Q. You saw the clip of your deposition that I
 10 played in the opening statement, right?
 11 A. That's correct, sir.
 12 Q. And you said in that deposition that you got
 13 a copy from Sprint of the Personal Edition using the
 14 false name of John Doe. That's what you said in your
 15 deposition, isn't it?
 16 A. I think I have to clarify that that was the
 17 account name I set up, sir.
 18 Q. Did you tell System SEVEN you were doing
 19 that?
 20 A. No, sir.
 21 Q. So then you used the Personal Edition to
 22 educate yourself on how the Personal Edition works,
 23 right?
 24 A. Yes, sir.
 25 Q. Did you ever get a version or did you ever

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1 get the Server Edition?
 2 A. No, sir.
 3 Q. Did you ever get the Enterprise Edition?
 4 A. No, sir.
 5 Q. You have no personal experience working with
 6 two of the three products in this case; isn't that true?
 7 A. That is correct, sir.
 8 Q. Now, when you used the Personal Edition, what
 9 did you use as the remote terminal?
 10 A. I tried two different remote terminals, a
 11 Treo 650 and a PBC6600 from Sprint, sir.
 12 Q. SEVEN doesn't sell either one of those, do
 13 they?
 14 A. I don't know. I didn't -- I didn't buy them
 15 from SEVEN. I bought them from Sprint.
 16 Q. Now, you said yesterday at the end of your
 17 testimony you have seen SEVEN advertising?
 18 A. Yes, sir.
 19 Q. Is that true; you've seen SEVEN advertising
 20 since November of 2005?
 21 A. I should probably say I've seen Sprint
 22 advertising. I probably should specify --
 23 Q. Well, there's a difference there; wouldn't
 24 you agree?
 25 A. Yes, sir.

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true
and correct transcript from the stenographic notes of
the proceedings in the above-entitled matter to the best
of my ability.

SUSAN SIMMONS, CSR

Date

Official Court Reporter

State of Texas No.: 267

Expiration Date: 12/31/06

JUDITH WERLINGER, CSR

Date

Deputy Official Court Reporter

State of Texas No.: 731

Expiration Date 12/31/06